

**FILED**

**MAY 28 2013**

**Board of Vocational Nursing  
and Psychiatric Technicians**

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**BEFORE THE  
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. VN-2011-3823

**JOSELLE FAJARDO AGUINALDO**

8972 Woodale Avenue  
Arleta, CA 91331

**A C C U S A T I O N**

Vocational Nurse License No. VN 209804

Respondent.

Complainant alleges:

**PARTIES**

1. Teresa Bello-Jones, J.D., M.S.N., R.N. ("Complainant") brings this Accusation solely in her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric Technicians, Department of Consumer Affairs.

2. On or about June 25, 2004, the Board of Vocational Nursing and Psychiatric Technicians issued Vocational Nurse License Number VN 209804 to Joselle Fajardo Aguinaldo ("Respondent"). The Vocational Nurse License expired on November 30, 2011, and has not been renewed.

**JURISDICTION AND STATUTORY PROVISIONS**

3. This Accusation is brought before the Board of Vocational Nursing and Psychiatric Technicians ("Board"), Department of Consumer Affairs, under the authority of the following

1 laws. All section references are to the Business and Professions Code ("Code") unless otherwise  
2 indicated.

3 4. Section 2875 of the Code provides, in pertinent part, that the Board of Vocational  
4 Nursing and Psychiatric Technicians ("Board") may discipline the holder of a vocational nurse  
5 license for any reason provided in Article 3 (commencing with section 2875) of the Vocational  
6 Nursing Practice Act.

7 5. Section 118, subdivision (b), of the Code provides that the suspension, expiration,  
8 surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a  
9 disciplinary action during the period within which the license may be renewed, restored, reissued  
10 or reinstated.

11 6. Section 490 of the Code states in pertinent part:

12 "(a) In addition to any other action that a board is permitted to take  
13 against a licensee, a board may suspend or revoke a license on the ground that the  
14 licensee has been convicted of a crime, if the crime is substantially related to the  
15 qualifications, functions, or duties of the business or profession for which the license  
16 was issued.

17 (b) Notwithstanding any other provision of law, a board may exercise any  
18 authority to discipline a licensee for conviction of a crime that is independent of the  
19 authority granted under subdivision (a) only if the crime is substantially related to the  
20 qualifications, functions, or duties of the business or profession for which the  
21 licensee's license was issued.

22 (c) A conviction within the meaning of this section means a plea or  
23 verdict of guilty or a conviction following a plea of nolo contendere. Any action that  
24 a board is permitted to take following the establishment of a conviction may be taken  
25 when the time for appeal has elapsed, or the judgment of conviction has been  
26 affirmed on appeal, or when an order granting probation is made suspending the  
27 imposition of sentence, irrespective of a subsequent order under the provisions of  
28 Section 1203.4 of the Penal Code."

7. Section 493 of the Code states:

"Notwithstanding any other provision of law, in a proceeding conducted  
by a board within the department pursuant to law to deny an application for a license  
or to suspend or revoke a license or otherwise take disciplinary action against a  
person who holds a license, upon the ground that the applicant or the licensee has  
been convicted of a crime substantially related to the qualifications, functions, and  
duties of the licensee in question, the record of conviction of the crime shall be  
conclusive evidence of the fact that the conviction occurred, but only of that fact, and  
the board may inquire into the circumstances surrounding the commission of the  
crime in order to fix the degree of discipline or to determine if the conviction is  
substantially related to the qualifications, functions, and duties of the licensee in  
question.

As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and 'registration.'"

8. Section 2878 of the Code states, in pertinent part:

"The Board may suspend or revoke a license issued under this chapter [the Vocational Nursing Practice Act (Bus. & Prof. Code, 2840, et seq.)] for any of the following:

...

(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter.

...

(f) Conviction of a crime substantially related to the qualifications, functions, and duties of a licensed vocational nurse, in which event the record of the conviction shall be conclusive evidence of the conviction.

...

(j) The commission of any act involving dishonesty, when that action is related to the duties and functions of the licensee."

#### **REGULATORY PROVISIONS**

9. California Code of Regulations, title 16, section 2521, states, in pertinent part:

"For the purposes of denial, suspension, or revocation of a license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a licensed vocational nurse if to a substantial degree it evidences present or potential unfitness of a licensed vocational nurse to perform the functions authorized by his license in a manner consistent with the public health, safety, or welfare. Such crimes or acts shall include but not be limited to those involving the following:

...

(c) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of Chapter 6.5, Division 2 of the Business and Professions Code.

...

(e) Conviction of a crime involving fiscal dishonesty."

#### **COST RECOVERY**

10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and

1 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being  
2 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be  
3 included in a stipulated settlement.

4 **FIRST CAUSE FOR DISCIPLINE**

5 **(Conviction of Substantially Related Crimes)**

6 11. Respondent is subject to disciplinary action under section 490 and section 2878,  
7 subdivision (f) in conjunction with California Code of Regulations, title 16, section 2521 in that  
8 Respondent was convicted of a crime substantially related to the qualifications, functions and  
9 duties of a licensed vocational nurse, as follows:

10 12. On or about March 7, 2012, Respondent pled nolo contendere to and was convicted of  
11 one misdemeanor count of violating Penal Code section 484(a) [petty theft] in the criminal  
12 proceeding entitled *The People of the State of California v. Joselle Aguinaldo* (Super. Ct. of  
13 California, County of Los Angeles, 2012, Case No. 2SR00696). The court ordered Respondent to  
14 serve 56 days in Los Angeles County Jail and placed Respondent on probation for 36 months,  
15 with terms and conditions. The circumstances underlying the criminal conviction are, as follows:

16 13. On or about February 18, 2012, Los Angeles Police Department Officers ("Officers")  
17 responded to execute an arrest on Respondent for an outstanding warrant. During the pat down  
18 incident to the arrest, Officers recovered California identification cards, debit cards and credit  
19 cards not issued to Respondent. A department computer search revealed that the property  
20 belonged to robbery victims.

21 **SECOND CAUSE FOR DISCIPLINE**

22 **(Act Involving Dishonesty)**

23 14. Respondent is subject to disciplinary action under section 2878, subdivision (j) of the  
24 Code and California Code of Regulations, title 16, section 2521, subdivision (e) in that  
25 Respondent committed an act involving dishonesty when he possessed California identification  
26 cards, debit cards and credit cards not issued to Respondent. The conduct is described in more  
27 particularity in paragraph 13 above, inclusive and hereby incorporated by reference.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Violation of Provisions of Licensing Chapter)**

3 15. Respondent is subject to disciplinary action under section 2878, subdivision (d) of the  
4 Code and California Code of Regulations, title 16, section 2521, subdivision (c) in that  
5 Respondent violated provisions of the Vocational Nursing Practice Act. The violations are  
6 described in more particularity in paragraphs 11 through 14 above, inclusive and hereby  
7 incorporated by reference.

8 **DISCIPLINARY CONSIDERATIONS**

9 16. To determine the degree of discipline, if any, to be imposed on Respondent,  
10 Complainant alleges, as follows:

11 17. On or about October 28, 2011, in a prior action, the Board of Vocational Nursing and  
12 Psychiatric Technicians issued Citation Number CV-2009-4387 and ordered Respondent to pay  
13 an administrative penalty (fine) in the amount of \$1,001.00 within thirty (30) days after service of  
14 the citation. That Citation is now final and is incorporated by reference as if fully set forth.

15 18. To determine the degree of discipline, if any, to be imposed on Respondent,  
16 Complainant alleges that on or about January 27, 2011, in a prior action, the Board of Vocational  
17 Nursing and Psychiatric Technicians issued Citation Number CV-2010-1219 and ordered  
18 Respondent to pay an administrative penalty (fine) in the amount of \$250.00 within thirty (30)  
19 days after service of the citation. That Citation is now final and is incorporated by reference as if  
20 fully set forth.

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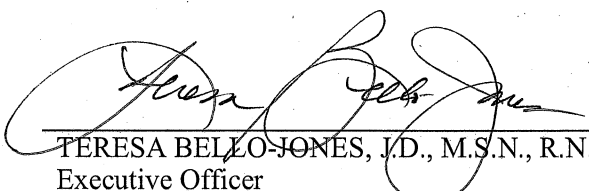
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**PRAYER**

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians issue a decision:

1. Revoking or suspending Vocational Nurse License Number VN 209804, issued to Joselle Fajardo Aguinaldo;
2. Ordering Joselle Fajardo Aguinaldo to pay the Board of Vocational Nursing and Psychiatric Technicians the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: May 28, 2013

  
TERESA BELLO-JONES, J.D., M.S.N., R.N.  
Executive Officer  
Board of Vocational Nursing and Psychiatric Technicians  
Department of Consumer Affairs  
State of California  
*Complainant*

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